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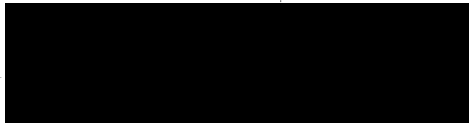


U.S. Citizenship
and Immigration
Services



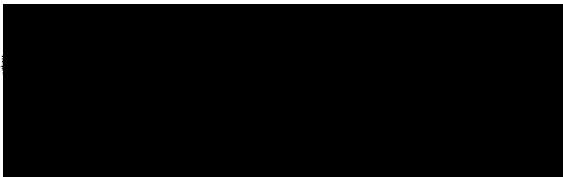
FILE: SRC 02 018 52619 Office: TEXAS SERVICE CENTER Date: JUL 07 2004

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

to Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a hospital that seeks to employ the beneficiary as a staff registered nurse. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

The instruction at the "Person Filing Appeal Box" and the information at paragraph 3 of the Form I-290B (Notice of Appeal) make it clear that, to file an appeal for a petitioner, an attorney must submit a Form G-28 (Notice of Entry of Appearance as Attorney or Representative), which documents that the petitioner has authorized him or her to do so. This has the force of a Citizenship and Immigration Services (CIS) regulation: 8 C.F.R. § 103.2(a)(1) states, in pertinent part, "Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or petition should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission."

The beneficiary, not an authorized representative of the petitioner, signed the Form G-28 that was submitted in conjunction with the appeal. CIS regulations specifically state that a beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not a recognized party, and as the record contains no G-28 signed by the petitioner to authorize representation by the attorney who submitted the Form I-290B, the attorney is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.